

REMARKS

This is a full and timely response to the outstanding final Office Action mailed February 23, 2007 (Paper No. 20070216). Upon entry of this response, claims 1-3, 7-9, 13-17, 20-22, 26-27, 30-31, 33-36, and 40-59 are pending in the application. In this response, claims 1, 15, 30, and 54 have been amended. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

I. Claim Objections

Claim 54 is objected to because of a typographical error. Claim 54 is amended herein. Applicants submit that the amendment overcomes the objection, and request that the objection be withdrawn.

II. Rejection of Claims 53-54 under 35 U.S.C. § 112, Second Paragraph

Claims 53-54 have been rejected under 35 U.S.C. § 112, second paragraph, as alleged being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. Specifically, the Office Action states that "the exact subject matter claims 53-54 are reciting is unclear from the language used in the claim." (Office Action, p. 7.) Applicants respectfully disagree.

A. Claim 53

Claim 53 recites "calculating an effect of adding the first employee further comprises calculating the effect of adding the first employee independent of adding any other employees". Applicants submit that the plain and ordinary meaning of this language is that when the effect of adding the first employee is calculated, that calculation is made independent of the addition of any other employees. Claim 53 further recites "calculating the effect of adding the another employee independent of adding any other employees." Applicants submit that the plain and ordinary meaning of this language is that when the effecting of adding another employee is

calculated, that calculation is made independent of the addition of any other employees. Therefore, claim 53 is not indefinite, and Applicants request that the rejection of claim 53 be withdrawn.

B. Claim 54

Claim 54 recites ""calculating the effect of adding the first employee as if the first employee is the only employee being added." Applicants submit that the plain and ordinary meaning of this language is that when the effecting of adding the first employee is calculated, that calculation is made as if no other employees are being added. Claim 54 further recites "calculating the effect of adding the another employee as if the another employee is the only employee being added." Applicants submit that the plain and ordinary meaning of this language is that when the effecting of adding another employee is calculated, that calculation is made as if no other employees are being added. Therefore, claim 54 is not indefinite, and Applicants request that the rejection of claim 54 be withdrawn.

III. Rejection of Claims 1-3, 7-9, 14-17, 20-22, 27, 30-31, 33-34, 36, 41-42, and 50-59 under 35 U.S.C. §103

Claims 1-3, 7-9, 14-17, 20-22, 27, 30-31, 33-34, 36, 41-42, and 50-59 have been rejected under §103(a) as allegedly obvious over *Stuart et al.* (6,639,982) in view of *O'Brien* (6,587,831). Applicants respectfully traverse this rejection. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

A. Claim 1

1. Proposed combination does not teach "receiving a definition for each of a plurality of agent profiles...wherein the definition includes...at least one attribute specifying an amount of change in the number of agents in the group during a specified time period"

Applicants respectfully submit that claim 1 is allowable for at least the reason that the proposed combination of *Stuart et al.* in view of *O'Brien* does not disclose, teach, or suggest at least the above-listed feature. The Office Action (p. 4) alleges that this feature is disclosed by *Stuart et al.* because "*Stuart et al.* explicitly teaches the optimization of the team sizes during a specified period of time (see column 8 lines 6-37; where team sizes have a variable that is optimized over a period of time.)" Applicants disagree.

Applicants agree that *Stuart et al.* teaches an optimization process that changes the size of a group of agents. Applicants will assume, for the sake of argument, that the size of the group is stored as an attribute of the group. However, this does not imply that the *change* in the size of the group is also stored as an attribute. Furthermore, even assuming for the sake of argument that the change to size of the group is stored as an attribute, a description of a **process** which changes the number of agents in the group is not equivalent to a **definition for an agent profile which includes an attribute** "specifying an amount of change in the number of agents in the group during a specified time period" as recited in claim 1. There is no teaching in *Stuart et al.* of such a definition.

Stuart et al. teaches that the process optimizes the team size variable, but does not teach that the optimization process **receives** this team size variable as recited in claim 1. In fact, Applicants submit that *Stuart et al.*'s teaching of a **process that chooses** the value of the team size variable teaches away from a **definition** that includes "change in the number of agents in the group during a specified time period" as recited in claim 1.

2. Proposed combination does not teach "calculating an effect of adding the first agent as if the first agent is the only agent being added"

Claim 1 is amended to include features recited in dependent claim 54, and now recites "calculating the effect of adding the first employee as if the first agent is the only agent being added". Applicants respectfully submit that amended claim 1 is allowable for at least the reason that the proposed combination of *Stuart et al.* in view of *O'Brien* does not disclose, teach, or suggest at least this feature.

Regarding claim 54, the Office Action alleges (p. 16) that

Linear programming optimization is the same as iterative summation. Linear optimization iteratively adds values and determines the effect of adding the values, until an optimal value is determined.

Applicants agree that *Stuart et al.* teaches linear programming optimization. However, a person of ordinary skill in the art understands that linear programming optimization works by running simulation on the entire schedule repeatedly, which is a **global computation** of contact center performance. In contrast, the invention defined by claim 1 adds agents incrementally and also **computes performance incrementally** by "calculating an effect of adding" each agent "as if that agent is the only agent being added".

O'Brien also fails to teach, suggest, or disclose "calculating the effect of adding the first employee as if the first agent is the only agent being added". Nor does the Office Action allege that *O'Brien* teaches this feature. Accordingly, the proposed combination of *Stuart et al.* in view of *O'Brien* does not teach at least the feature discussed above.

3. *O'Brien* is not properly combinable with *Stuart et al.*

Applicants submit that *O'Brien* is not properly combinable with *Stuart et al.* Furthermore, even if *O'Brien* was combined with *Stuart et al.*, the combination does not result in the features recited in claim 1. *Stuart et al.* teaches a system and process that "continually and dynamically makes adjustments to the team configuration, the team size and the agent tour to ensure an agent work force configuration that is superior to a configuration." (*Stuart et al.*, Col. 8, lines

1-5.) *O'Brien* teaches "a system and method which allow employees remote access to receive scheduling information and post proposed changes to the schedule". The problem solved in *O'Brien* is not the problem of calculating the **effect** of adding agents to a schedule as recited in claim 1 ("calculating an effect of adding the first agent").

The Office Action alleges (p. 11) that "*O'Brien*...in an analogous art explicitly teaches long-range staffing, where a period of time is a month or greater" and that "[i]t would have been obvious...to combine the feature of 'the plan covers a period that is more than a month in the future' as taught by *O'Brien* to *Stuart et al.* in order to enable users to plan for demand on a macro scale." This allegation appears to suggest that the teachings of *O'Brien* would help one move scheduling from small time scales to large time scales. Applicants respectfully disagree.

Applicants admit that *O'Brien* relates to scheduling for a time period greater than a month. Applicants agree that *O'Brien* and *Stuart et al.* are analogous to the extent that both deal with scheduling employees. However, *O'Brien* teaches a bidding system for employees to fill out a schedule. The greater-than-one-month timescale used in this **bidding system** is not relevant at all to the timescale used in *Stuart et al.*'s system for **automatically scheduling** employees to meet demand. The two references are not properly combinable in the manner suggested in the Office Action.

4. Conclusion

Since the proposed combination does not teach at least the features recited in claim 1, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claim 1 is not obvious under the proposed combination of *Stuart et al.* in view of *O'Brien*, and the rejection should be withdrawn.

B. Claim 16

1. Proposed combination does not teach "receiving a definition for each of a plurality of agent profiles...wherein the definition includes...at least one attribute specifying an amount of change in the number of agents in the group during a specified time period"

Applicants respectfully submit the proposed combination of *Stuart et al.* in view of *O'Brien* does not disclose, teach, or suggest at least the above-listed feature of claim 16, for reasons similar to those discussed above in connection with claim 1.

2. Proposed combination does not teach "calculating an effect of adding the first employee while considering the first employee to be the only employee from the at least one profile that is added"

Claim 16 is amended and now recites "calculating the effect of adding the first employee as if the first agent is the only agent being added". As discussed above in connection with claim 1, Applicants agree that *Stuart et al.* teaches linear programming optimization. However, a person of ordinary skill in the art understands that linear programming optimization works by runs simulation on the entire schedule repeatedly, which is a **global computation** of contact center performance. In contrast, the invention defined by claim 16 adds agents incrementally and also **computes performance incrementally** by "calculating an effect of adding" each employee "while considering the [first] employee to be the only employee from the at least one profile that is added". *O'Brien* also fails to teach, suggest, or disclose this feature. Accordingly, the proposed combination of *Stuart et al.* in view of *O'Brien* does not teach at least this feature.

3. *O'Brien* is not properly combinable with *Stuart et al.*

Applicants submit that, for reasons similar to those discussed above in connection with claim 1, *O'Brien* is not properly combinable with *Stuart et al.*. Furthermore, for reasons similar to those discussed above in connection with claim 1, even if *O'Brien* was combined with *Stuart et al.*, the combination does not result in the features recited in claim 16.

4. Conclusion

Since the proposed combination does not teach at least the features recited in claim 16, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claim 16 is

not obvious under the proposed combination of *Stuart et al.* in view of *O'Brien*, and the rejection should be withdrawn.

C. Claim 30

1. Proposed combination does not teach "receiving a definition for each of a plurality of agent profiles...wherein the definition includes...at least one attribute specifying an amount of change in the number of agents in the group during a specified time period"

Applicants respectfully submit the proposed combination of *Stuart et al.* in view of *O'Brien* does not disclose, teach, or suggest at least the above-listed feature of claim 30, for reasons similar to those discussed above in connection with claim 1.

2. Proposed combination does not teach "calculating an effect of adding the first employee, while considering the addition of the first employee to be independent of adding any other employees from the at least one profile"

Claim 30 is amended and now recites "calculating an effect of adding the first employee, while considering the addition of the first employee to be independent of adding any other employees from the at least one profile". As discussed above in connection with claim 1, Applicants agree that *Stuart et al.* teaches linear programming optimization. However, a person of ordinary skill in the art understands that linear programming optimization works by runs simulation on the entire schedule repeatedly, which is a **global computation** of contact center performance. In contrast, the invention defined by claim 30 adds agents incrementally and also **computes performance incrementally** by "calculating an effect of adding" the employee, "while considering the addition of the [first] employee to be independent of adding any other employees from the at least one profile". *O'Brien* also fails to teach, suggest, or disclose this feature. Accordingly, the proposed combination of *Stuart et al.* in view of *O'Brien* does not teach at least this feature.

3. *O'Brien* is not properly combinable with *Stuart et al.*

Applicants submit that, for reasons similar to those discussed above in connection with claim 1, *O'Brien* is not properly combinable with *Stuart et al.*. Furthermore, for reasons similar to

those discussed above in connection with claim 1, even if *O'Brien* was combined with *Stuart et al.*, the combination does not result in the features recited in claim 30.

4. Conclusion

Since the proposed combination does not teach at least the features recited in claim 30, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claim 30 is not obvious under the proposed combination of *Stuart et al.* in view of *O'Brien*, and the rejection should be withdrawn.

D. Claims 2-3, 7-8, 14-15, 17, 20-22, 27, 31, 33-34, 36, 41-42, and 50-59

Since independent claims 1, 16, and 30 are allowable, Applicants respectfully submit that claims 2-3, 7-8, 14-15, 17, 20-22, 27, 31, 33-34, 36, 41-42, and 50-59 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 2-3, 7-8, 14-15, 17, 20-22, 27, 31, 33-34, 36, 41-42, and 50-59 be withdrawn.

IV. Rejection of Claims 13, 26, 35, and 40 under 35 U.S.C. §103

Claims 13, 26, 35, and 40 have been rejected under §103(a) as allegedly obvious over *Stuart et al.* (6,639,982) in view of *O'Brien* (6,587,831) and *Kintner* (6,723,079). Applicants respectfully traverse this rejection. The addition of *Kintner* does not cure the deficiencies of *Stuart et al.* and *O'Brien* discussed above in connection with independent claims 1, 16, and 30. Therefore, claims 13, 26, 35, and 40 are considered patentable under any combination of these references. Furthermore, since independent claims 1, 16, and 30 are allowable, Applicants respectfully submit that claims 13, 26, 35, and 40 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 13, 26, 35, and 40 be withdrawn.

V. Rejection of Claims 43-49 under 35 U.S.C. §103

Claims 43-49 have been rejected under §103(a) as allegedly obvious over *Stuart et al.* (6,639,982) in view of *O'Brien* (6,587,831) and *Castanguay* (5,911,134). Applicants respectfully traverse this rejection. The addition of *Kintner* does not cure the deficiencies of *Stuart et al.* and *O'Brien* discussed above in connection with independent claims 1, 16, and 30. Therefore, claims 43-49 are considered patentable under any combination of these references. Furthermore, since independent claims 1, 16, and 30 are allowable, Applicants respectfully submit that claims 43-49 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 43-49 be withdrawn.

CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1-3, 7-9, 13-17, 20-22, 26-27, 30-31, 33-36, and 40-59 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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